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| 10/660,810      | 09/11/2003  | Peter Gerrard        | 0112300-1633        | 7059             |

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CHICAGO, IL 60690

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| EXAMINER |
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RENDON, CHRISTIAN E

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| ART UNIT | PAPER NUMBER |
|----------|--------------|

3714

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|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
|-------------------|---------------|

11/26/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATENTS@BELLBOYD.COM

## Office Action Summary

Application No.

10/660,810

Applicant(s)

GERRARD ET AL.

Examiner

CHRISTIAN E. RENDÓN

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-56 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION*****Response to Pre-Brief Conference Request***

This office action is in response to the pre-brief conference filed 8/28/08. The verdict of the conference is to issue another final office action to provide further explanation of how the prior art teaches the limitations.

***Response to Amendment***

This office action is in response to the amendment filed 1/30/08 in which applicant has amended the following claims 1, 17, 30 & 43; responded to the claim rejections. Claims 1-56 are still pending.

***Claim Rejections - 35 USC § 103***

**Claims 1-7, 9-14, 1621, 2328, 3033, 35-40, 42-47 and 49-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole (GB 2353128A) in view of Vancura (US 6,843,721 B2).**

1. Regarding claims 1, 17, 30 and 43, Claypole designed a game “to increase the player’s perception that their tactics and skill will result in a greater chance of winning” (pg. 1, par 3, line 4) by adding several elements that encourage strategic planning. One of these elements is the multiple colored: Red, Blue, and Yellow trails of different lengths (pg. 9: par 2, line 2) that are also divided into a different number of segments. The award trails are viewed as teaching **award groups** and each segment on the trail is viewed as an **indicator** because the player’s current position on each trail (pg. 6, par 5, line 1) is represented through the illumination of the appropriate square (pg. 11, par 3, line 1). Movement through the trail occurs when a user lines up the same symbol along any of the visible horizontal or contribution lines, then those symbols may contribute to their respective trails (pg. 2-3, par 6, line 1). Only the reel symbols that have a ‘number’ or points associated with them (pg. 3, par 3, line 1) can grant the player a ‘number’ of spaces (points) on the trail (pg. 3, par 4, line 1). The reference teaches offering the player ‘1’, ‘2’ or ‘3’ points (fig. 3: 360) however the Examiner views the reference as teaching offering any possible number. In addition, the reference teaches the possibility of acquiring points across more than one row thus teaching the reels or rotatable display as an **indicator generator that generates and associates a number of indicators with each of the award groups**. Each trail has a

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different award on certain positions (pg. 9: par 2, line 4) and an ultimate award at the end of the trail (Figure 3, item 1). In other words, a player is able to accumulate the necessary number of points or indicators in a single spin to land on an award segment such as “two pounds” (fig. 3) and win a prize (pg. 4, par. 3, lines 10-11).

Therefore the game offers the possibility of **accumulating** the exact **number of** points or **indicators** in an **award group** on one spin or a **single play of the game** to win an award from the **award group** at the beginning of a game or during the an on-going game. Claypole offers another level of strategy to the game through the ‘gamble’ button. This feature moves the player around the track (pg. 10, lines 26-28) by randomly offering either a good result (a prize or bonus game square), a neutral result (a square) (pg. 10, lines 24-30) or a negative result (the loss of their position) (pg. 11, lines 1-2). Hence the loss of a position is displayed by **resetting the** lights of the segment or **indicators** during the play of a game. Therefore it is possible for a player to lose all of the previously accumulated indicators in a current game without losing the entire game because the negative result is greater than or equal to the total number of accumulated indicators. Thus the ‘gamble’ button teaches **randomly determining whether to rest the indicators in an award group.**

2. Claypole is silent towards how the primary and secondary game can end, leaving one of ordinary skill to assume that a player can attempt to accumulate prizes until the player loses enough interest or runs out of money. However it is pretty obvious that once a **game ends all of the accumulated lights would reset** to allow the next player a chance to play the game their own way. Furthermore, Vancura discloses a method for playing a casino **game that ends randomly** after every player choice of an object (Vancura: abstract). In other words, the random nature of the ending scheme disclosed by Vancura allows for the possibility of **ending a game after a single play of** or player choice in **the game**; therefore meeting the claim’s limitation of ending a game after a single wager. Vancura believes this feature will create a considerable level of suspense since the player will never know how long the game will continue to last (Vancura: col. 2, lines 12-16). Therefore one of ordinary skill would include this ‘suspense’ feature in Claypole’s design to further increase the strategic difficulty of the game.

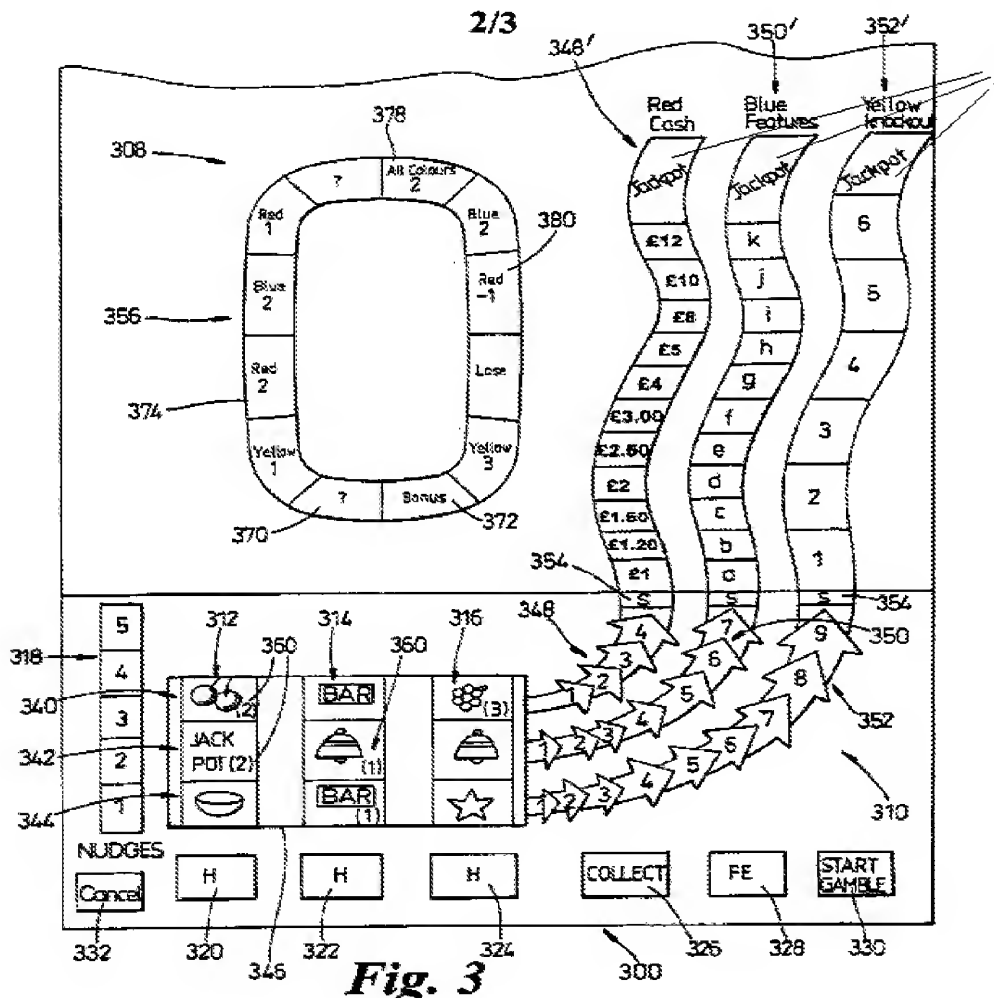
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3. Regarding claims 2-4, 18 and 44, Claypole discloses a basic slot machine with multiple (pg. 2, par 2, line 1) mechanical (pg. 6, par 4, line 1) or video (pg. 2, par 3, line 1) reels. The reels are viewed as indicator generator as mention previously and are adjacent to multiple colored “trails along which a user can move dependant upon the points awarded to the user” (pg. 2, par 1, line 3).
4. Regarding claims 5-7, 9-10, 19-21 and 23-24, Vancura discloses the probability of a game randomly ending increases after a player chooses an object (Vancura: claim 10), in other words as a game progresses (Vancura: claim 6). In one embodiment, the probability of game ending starts at 14%, after the first choice becomes 15% and 16% after the second choice; increasing 1% for each progressive choice that is made by the player. Therefore the probability of a game ending randomly is associated with the game and pre-determined. The objects that a player can choose are associated with awards (Vancura: col. 2, lines 8-10). The accumulation of all of the indicators results in rewarding of the ultimate prize therefore each time a regular or ultimate prize is won in the art combination of Claypole and Vancura the probability of the game ending randomly will change.
5. Regarding claims 11-14, 25-28, 31-32, 35-40, 45-47 and 49-54, Claypole has added another strategic element by giving the player the choice to “hold” a reel and “nudge” a symbol (pg. 1, par 3, line 4). Both features allow for the player to contribute their points on two different trails (pg. 2, par 5, line 2) (pg. 3, par 5, line 2) when they chose too. The “Hold” feature is offered randomly and allows the player to hold the reel in place for the purpose of causing a match on a contribution line to occur (pg. 10, par 2, line 2). “Nudges” are also offered randomly (pg. 8, par 4, line 3) which allows the player to add points from a “contribution line A” to any number of contribution lines that are below line A (pg. 9, par 1, line 2). In other words, a player could win 4 points on the top most line and decide to “nudge” the points down two levels, giving the next two lines 4 points each as well. Therefore, the slot reels that randomly distribute numbers are viewed as an indicator generator and the ability to associated these numbers to the multiple award columns of different colored lights or different colored trails of lights (pg. 11, par 3, line 1) is offered to the player randomly. Furthermore, an award will now

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have multiple probabilities associated with it since the offering of a 'Nudges' and 'Hold', the position of an award on paths of various lengths and the slot reels all have different uncorrelated probabilities.

6. Lastly, referring to claims 1, 16, 17, 30, 42, 43, and 56 it would be obvious to someone of ordinary skill in the art to program the processor of the game machine to **reset the indicators of an award group** when the **prize is awarded** to the player or at the **end of a game**.



Claims 8, 15, 22, 29, 34, 41, 48 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Claypole (GB 2353128A) in view of Vancura (US 6,843,721 B2) and in further view of Seelig (US 2003/0036418 A1).

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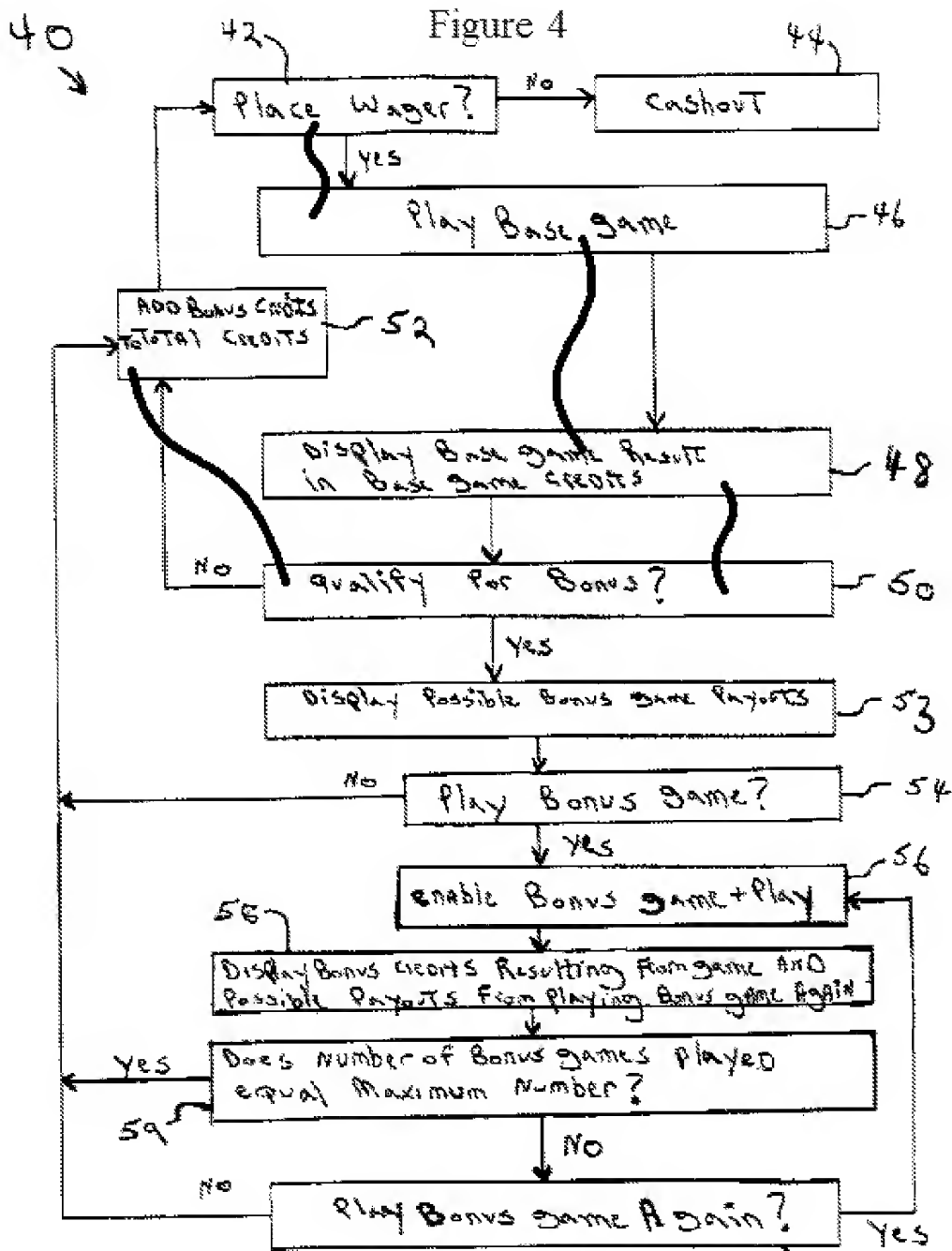
7. The above description of the art combination of Claypole and Vancura and the limitations they pertain is considered within this art rejection as well. The art combination fails to disclose basing any outcome with the wager made by the player. Seelig teaches a casino game that determines when to offer the player a choice between a prize or a bonus game based on the wager and a predetermined value (Seelig: claim 33). Figure 4 is a flowchart of the preferred embodiment of Seelig invention (Seelig: par 36, line 1). The 'Bold Curved Path' illustrates the shortest game a player can experience from beginning to end. The event 'Qualify for Bonus' (Seelig: figure 4, item 52) refers to the awarding of a prize or the triggering of a bonus game (Seelig: par 37, pg. 3, line 2) because a predetermined event and/or an accumulation of events were met (Seelig: par 37, pg. 3, line 5). When a player loses in the 'base game' (Seelig: figure 4, item 46 & 48) and does not trigger the bonus game, zero credits will be added to 'Total Credits' and 'Bonus Credits' (Seelig: par 37, pg. 3, line 10). If the player has a total of zero credits and decides to not wager any more money then the player has reached the 'end of the game.' Therefore, Seelig teaches a method that uses a predetermination based on a wager allow a player to win a prize (rejecting claims 34, 48 and 55) and experience to unfortunate event of a game ending suddenly (rejecting claims 8 and 22).

8. Therefore, it would have been obvious, to one of ordinary skill in the art at the time the invention was made, to combine the method of award and 'end of the game' determination disclosed by Seelig with the art combination of Claypole and Vancura in order to provide another strategic element that will "increase the player's perception that their tactics and skill will result in a greater chance of winning" (pg. 1, par 3, line 4). In other words, if the player knew that the odds of winning a prize and losing a game changed every time they won a prize and were based on their wager then this would encourage a player to formulate a strategic plan instead of deciding on 'what to do next' randomly.

9. Regarding claims 15, 29 and 41, the art combination of these three references would also teach basing the generation of the number of indicators on a wager. Since Vancura and Seelig already teaches the strategic

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element that a player's actions affect the game's outcome. Therefore the player's wager would also be a factor in the calculation of the generation of a bonus number that help the player achieve an award.





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*Response to Arguments*

Applicant's arguments filed 1/30/08 have been fully considered but they are not persuasive. The Examiner would like to further point out that the philosophy of randomly determining when to end a game after a single play is well known in the art of games. Video games with mini-games usually operate under a "do or die" mentality, for example 'Lightning Dodging' mini-game in Final Fantasy X. The goal of the player is to dodge 200 lightning bolts however a single strike will cause the player to lose their entire collected tally (<http://www.gamefaqs.com/features/top10/1041.html>). Despite the strict rule, players are enticed to complete the mini-game by the grand prize, Venus Sigil.

*Conclusion*

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRISTIAN E. RENDÓN whose telephone number is (571)272-3117. The examiner can normally be reached on 9 - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CER  
/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3715